



RIGHTS STUFF

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Is it Illegal to Fire Someone for Premarital Sex?

Jaretta Hamilton began working for Southland Christian School as a teacher in January 2008. In January, 2009 she and her fiancé conceived a child and got married the next month. She told her supervisor in April that she was pregnant and asked for maternity leave. During that meeting, she admitted she had conceived the child before the wedding ceremony. Her supervisor, John Ennis, fired her, allegedly because she had engaged in premarital sex and because "there are consequences for disobeying the word of God."

She sued, alleging pregnancy discrimination under federal law and marital status discrimination under Florida law.

The school tried to argue on appeal that it was exempt from a pregnancy discrimination lawsuit as a religious-based organization. But it did not argue that at trial and thus lost the right to make that argument on appeal.

The school also argued that Hamilton had to lose because she could not show that it had treated any similarly-situated employee who was not pregnant differently. But the Court said she had enough evidence to raise a reasonable inference of intentional discrimination, and thus she did not have to come up with a similarly-situated employee.

Hamilton testified that when she told Ennis that she was pregnant, but before she told him that the child had been conceived before marriage, "he put his head back and he said, 'We feared something like this would happen.'" Before she described the circumstances of her child's conception, he told her she would have to take an entire year off because it was hard to replace a teacher after the school year had started.

The school tried to argue that it fired Hamilton not because of her pregnancy, but because of the circumstances of the conception, which it argued is not protected by pregnancy discrimination laws. Hamilton testified that when she met with Ennis, she asked him, "What is the issue here? Is it because of the coverage [of the classroom]? Or because of the premarital conception? And he said 'Both reasons.'"

The school said that if Hamilton had said she was sorry for sinning against the Lord, it would not have fired her. But Hamilton testified that during the meeting, she told Ennis that when she found out she was pregnant, both she and her husband prayed together and asked for forgiveness. She said she expressed to Ennis that she was remorseful for what she had done and that she believed that God had forgiven her.

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Woman Wins Sexual Harassment Case

PortaCo, Inc. is a company in Minnesota that makes hydraulic power units and small tools. Cassandra Mehl began working there as a welder in July of 2010. As a new employee, she was subject to a 90-day probationary period. PortaCo employed only three women; Mehl was the only woman who worked on the shop floor.

Timothy Wilson is the president and treasurer of PortaCo as well as the owner of 75% of the company. He would often walk through the floor and interact with his employees. He frequently tapped or slapped employees on the backside when he walked past them.

Wilson's behavior towards Mehl went beyond his customary interaction with his male employees. During her first week, while she was squatting and welding, he stuck his foot between her legs. She fell down and told him not to touch her. He laughed and walked away. She reported the incident to her immediate supervisor, who told her that Wilson is "just flirty." He talked to Wilson, who told him that he had tripped and grabbed Mehl.

Later that same week, Wilson lifted up Mehl's shirt and tried to reach inside her front pants pocket. He said he was looking for a pen. She again told him not to touch her and not to "invade my personal space." A few minutes later, he again reached in her pants pocket.

Later that month, Wilson used a piece of chalk to circle Mehl's left breast on the outside of her welding jacket. The next month, when she was cutting several pieces of metal for him, he held a tape measure in front of his crotch and told her to "give me nine inches." He told her to grab his tape measure from his front pocket. She told him to have one of the guys do that instead, and he said, "Young lady, you better be mindful of your actions." She told him that his behavior made her uncomfortable and that she could not work under these circumstances.

Mehl said that Wilson often walked behind her and touched her backside while she was welding. At an employee training session, he stood behind her, rubbed her back and outlined her bra straps with his fingers while he talked to the other employees. Not surprisingly, her co-workers noticed this. One suggested she probably needed to get a new job to avoid Wilson's harassment.

The next week, Wilson grabbed Mehl's backside and reached between her legs. She began to cry and ran to the restroom, saying she did not want to be touched. He followed her and said he would not do it again. But a few days later, Wilson walked up behind Mehl and began rubbing her back and shoulders.

The environment at work allegedly caused Mehl to have stress-related medical issues, including nosebleeds, diarrhea, headaches, nausea and elevated blood pressure.

Mehl's supervisor met with her to discuss the end of her probationary period. He told her she had missed more work than he would like, which she attributed to headaches. He offered her a raise and full-time employment. She did not bring up Wilson's behavior at the meeting and neither did her supervisor.

But she never went back to work. She told her supervisor that she was not comfortable at work and could not return. Instead, she sued, alleging sex discrimination.

Portaco argued that Wilson was physical with both male and female employees and thus had not discriminated against Mehl on the basis of her sex. But the testimony showed that while he did slap both male and female employees on the backside, he subjected only Mehl to behavior such as touching her between her legs, circling her breast with chalk, telling her to reach inside his front pocket, rubbing her back and tracing her bra strap.

The company also argued that Wilson's behavior was not so terrible as to have created an "objectively intolerable" work

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Indiana Company Being Sued for Alleged Discrimination Against Non-Citizens

The U.S. Department of Justice announced in June 2012, that it was suing Rose Acre Farms, Inc. Rose Acre is a major U.S. egg producer and is based in Seymour, Indiana.

According to the complaint, Rose Acre has a standard policy of subjecting newly hired non-U.S. citizens to unauthorized demands for more, different or specific documents issued by the U.S. Department of Homeland Security in order to verify their employment eligibility. The complaint said the company allowed newly hired U.S. citizens to present their choice of documentation.

Federal law requires employers to obtain documentation from new employees that they are eligible to work in the United States. Federal law also prohibits discrimination against applicants and employees on the basis of citizenship status. The question for the employer should not be, "Are you a citizen?" The question should be, "Are you legally eligible to work in the U.S.?" (There are exceptions for some security-related jobs, likely not applicable to an egg producer.)

The Department of Justice said that Rose Acre purchased an electronic employment eligibility verification software system in June 2009, that may have prompted human resource officials to demand additional documents from

non-citizens. The U.S. is seeking an order prohibiting further discrimination on the part of Rose Acre, a change in their policy, monetary damages for those who were harmed by the policy and civil penalties.

If you are an employee with questions about employment discrimination under federal immigration laws, call the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) worker hotline, 1-800-255-7688. If you are an employer with questions, call their employer hotline, 1-800-255-8155. The TDD number for both services is 1-800-237-2515. Or visit their website, www.justice.gov/crt/about/osc.

Montessori School and DOJ Reach Settlement

Kathy Castaneda tried to enroll her five-year-old child, who has autism, in the Montessori Academy, located in Baldwin Park, California. She said she was told that as of July 2008, the school would not accept any child with autism or any other specialized condition or need. She filed a complaint of disability discrimination in public accommodations with the U.S. Department of Justice and won.

According to the DOJ, the Academy is a 100% state-funded private preschool program and thus is a covered public accommodation under the ADA. The school

denied that it had violated the ADA, but agreed to enter into a settlement agreement.

Under the agreement, the Montessori Academy agreed to do the following:

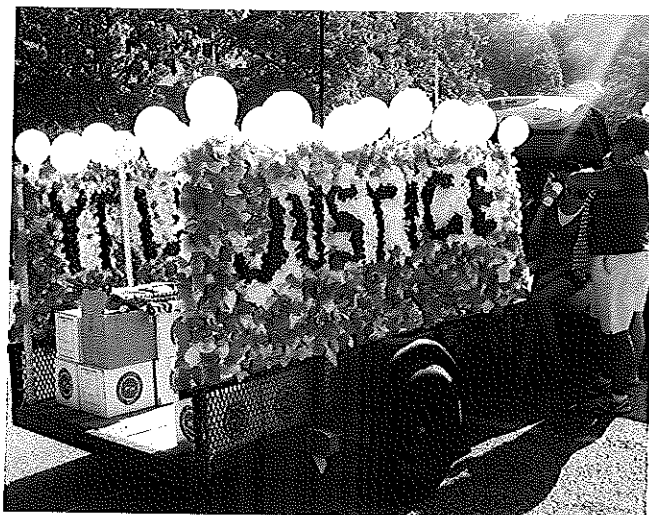
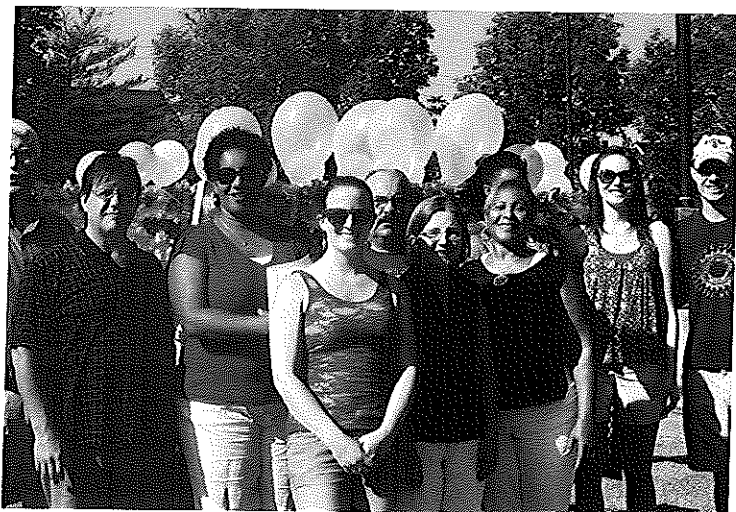
- Not discriminate against any individual on the basis of disability, including autism.
- Provide reasonable modifications in its policy and procedures to serve students with disabilities.

- Designate an employee to be the ADA compliance officer.

- Adopt a non-discrimination policy, prepare a reasonable accommodation or modification policy and have the ADA compliance officer review any denials of requests for accommodations.

- Train all of its employees who review applications about its non-discrimination policy.

- Provide training to any teachers who are working with students who have autism.



Members of the Bloomington and Monroe County Human Rights Commissions joined forces by marching together in the 4th of July parade, handing out hundreds of activity books to children along the route.

Is it Slanderous or Defamatory to Falsely Call Someone Gay?

Indiana law provides that "every charge of incest, homosexuality, bestiality, fornication, adultery or whoredom falsely made against any person is actionable in the same manner as in the case of slanderous words charging a felon."

Recently, a man in New York sued for defamation under a similar law because someone falsely said he was gay. An appeals court found against him, saying, "In light of the tremendous evolution in social attitudes regarding homosexuality, it cannot be said that current public opinion supports a rule that would equate statements imputing homosexuality with" other current types of defamatory allegations such as incest or bestiality.

Mark Yonaty sued Jean Mincolia for falsely telling a friend of his girlfriend's that he was gay. Apparently Mincolia hoped this rumor would get back to Yonaty's girlfriend. Yonaty said that this unfounded rumor "caused the deterioration and ultimate termination of my relationship with my girlfriend."

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But that didn't seem to make a difference to Ennis.

The Appeals Court remanded the case to the Trial Court for further proceedings. The case is Hamilton v. Southland Christian School, Inc., 2012 WL 1694589 (11th Cir. 2012).

Sexual Harassment Case

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environment. The Court said that given the frequency of his conduct and her response to it, a reasonable jury could find that it did.

Portaco said that Mehl did not give the company a reasonable opportunity to correct the problem. The Court said that the supervisors knew of Wilson's conduct because she had complained and because her superior, Wilson, was the offender. The case is Mehl v. Portaco, Inc., 2012 WL 1593215 (D. Minn. 2012).